

REMARKS

Claims 1-3, 21, 22, 24 and 25 remain in this application. Claims 24 and 25 have been amended. Claim 26 has been canceled. New dependent claim 27 has been added. Applicants respectfully request reconsideration in view of the above amendments and the following remarks.

Applicants' Response to 35 U.S.C. §103 Rejection over Yen in view of Verona and Kidd

Claim 26 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent No. 4,906,377 to Yen et al. (hereinafter "Yen") in view of U.S. Patent No. 5,776,185 to Verona et al. (hereinafter "Verona") and U.S. Patent No. 6,770,202 to Kidd et al. (hereinafter "Kidd").

Applicants have canceled claim 26, and thus, respectfully submit that this rejection has been obviated. Withdrawal of this Section 103 rejection is respectfully requested.

Applicants' Response to 35 U.S.C. §103 Rejection over Cabasso in view of Kidd

Claims 1 and 21 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent No. 4,951,381 to Cabasso in view of Kidd. Applicants again assume that the Examiner is referring to U.S. Patent No. 4,954,381 to Cabasso (hereinafter "Cabasso") in this rejection. Applicants respectfully request reconsideration on the basis that the combination of Cabasso and Kidd fails to teach or suggest Applicants' claims 1 and 21, and thus, fails to make out a prima facie case of obviousness.

The Examiner contends that Cabasso discloses a medical device that is implantable and comprises a PTFE matrix having a polymeric material therein that is extractable upon exposure to dissolving medium to create pores in the matrix. According to the Examiner, Cabasso discloses an extractable polymeric material that is a solid. In particular, the Examiner cites Cabasso's disclosure of gelatin for water-soluble polymer (A), alleging that the gelatin is a solid. Applicants respectfully traverse this assertion.

The Examiner admits that Cabasso fails to disclose extrusion in the form of a tube. The Examiner cites Kidd, however, for such disclosure. In particular, the Examiner alleges that Kidd teaches the interchangeability of solution casting and extrusion in the form of a tube.

Contrary to the Examiner's allegations, Cabasso fails to disclose or suggest an extractable polymeric component in the form of a solid, as recited in Applicants' claims 1 and 21. Although the Examiner cites Cabasso's disclosure of gelatin for water-soluble component (A), such component is not a solid. The gelatin disclosed in Cabasso is in solution, and thus, is a liquid.

More specifically, Cabasso discloses a microporous membrane and a method of making the membrane. In accordance with the teachings of Cabasso, a solution of a polymer (B) and a solution of a water-soluble polymer (A) are provided. (Cabasso; Abstract, Col. 3, lines 58-59 and 64-65). Each of the polymers (A) and (B) are dissolved in a solvent, and thus, are in liquid form. The solution of polymer (B) is dispersed in the solution of a water-soluble polymer (A). Because the polymer (A) solution is a non-solvent for the polymer (B) solution, microspherical droplets of the polymer (A) solution disperse throughout the polymer (B) solution. (Cabasso; Col. 4, lines 5-6). Cabasso specifically states that the microspherical droplets of polymer (A) are "solution droplets." (Cabasso; Col. 4, line 8). The organic solvent for the polymer (B) solution then is evaporated to form the membrane. The microspherical droplets of the polymer (A) solution are distributed throughout the membrane. (Cabasso; Col. 4, lines 11-14). The polymer (A) droplets distributed throughout the membrane, therefore, are liquid droplets. Cabasso specifically explains that "[s]ubsequent removal of the liquid components yields a bee-hive morphology." (Cabasso; Col. 5, line 67 to Col. 6, line 1) (emphasis added).

In view thereof, all of the components disclosed in Cabasso as suitable water-soluble polymers (A) are necessarily dissolved in a solvent to provide a polymer (A) solution. Such solution forms the liquid droplets distributed throughout the membrane of polymer (B). The gelatin disclosed as an exemplary water-soluble polymer (A), therefore, is necessarily used as a liquid, not a solid as asserted by the Examiner. Cabasso is devoid of any disclosure or

suggestion of an extractable polymeric material in the form of a solid. The whole teaching of the reference is directed to the use of polymer solutions and, accordingly, the formation of solution droplets. One skilled in the art would have no motivation to modify the teachings of Cabasso, as the solution droplets are a necessary part of forming the membrane. Moreover, to modify the teachings of Cabasso in this manner would impermissibly destroy its intent and purpose. Cabasso's solution is a necessary part of Cabasso's invention. Thus, Cabasso's teachings regarding solutions are not relevant to Applicants' present claims.

Moreover, Kidd is merely cited for its disclosure relating to extrusion in the form of a tube. Nowhere in Kidd is there any disclosure or suggestion of non-expanded PTFE containing discrete domains of a solid extractable polymeric material distributed throughout. Kidd, therefore, fails to cure the deficiencies of Cabasso in this regard. Accordingly, the combination of Cabasso and Kidd fails to render claims 1 and 21 prima facie obvious.

Applicants respectfully submit that claims 1 and 21 are patentable over Cabasso and Kidd, each taken alone or in combination. Reconsideration and withdrawal of the Section 103 rejection based on this combination is respectfully requested.

Applicants' Response to 35 U.S.C. §103 Rejection over Cabasso in view of Kidd and Chuter

Claims 2, 3, 22, 24 and 25 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Cabasso in view of Kidd and U.S. Patent No. 6,293,969 to Chuter (hereinafter "Chuter"). Applicants respectfully request reconsideration on the basis that the cited combination fails to teach or suggest Applicants' claims, and hence fails to make out a prima facie case of obviousness.

With respect to claim 2, because it depends from claim 1, the claim contains all of the recitations thereof. As discussed above with regard to claim 1, Cabasso and Kidd fail to disclose, teach or suggest a tubular extrudate containing discrete domains of an extractable polymeric material that is solid. Because Chuter was cited merely for its disclosure related to

stents, it fails to cure the deficiencies of Cabasso and Kidd in this regard. In view thereof, claim 2 is not obvious in view of the teachings of Cabasso in combination with Kidd and Chuter.

As regards claims 3, 22, 24 and 25, each of these claims requires an extractable polymeric material in the form of a solid. Claims 3 and 22 previously recited such solid extractable polymeric material. Applicants have amended claims 24 and 25 to similarly require the extractable polymeric material to be solid.

As discussed above with respect to claim 1, Cabasso merely discloses solution, or liquid, droplets of one polymer, e.g., gelatin, distributed throughout another polymer. Nowhere in Cabasso is there any teaching or suggestion of an extractable polymeric material in the form of a solid. Nor would one skilled in the art be motivated to modify the teachings of Cabasso as the polymer solution is a necessary part of forming the membrane.

Furthermore, similar to above, Kidd and Chuter both fail to cure the deficiencies of Cabasso in this regard. In view thereof, claims 3, 22, 24 and 25 are not obvious in view of the teachings of Cabasso in combination with Kidd and Chuter.

In view of the above, Applicants respectfully submit that claims 2, 3, 22, 24 and 25 are patentable over Cabasso, Kidd and Chuter, each taken alone or in combination. Reconsideration and withdrawal of the Section 103 rejection based on this combination is respectfully requested.

Application No: 10/002,521
Amendment and Response dated August 18, 2006
Reply to Office Action of May 18, 2006
Docket No: 760-35 CIP/RCE III
Page 10

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number given below.

Respectfully submitted,



Jamie M. Larmann
Registration No.: 48,623
Attorney for Applicants

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700